

**R E M A R K S**

This amendment is responsive to the Office Action<sup>1</sup> mailed on May 17, 2007.

Claims 1-81 and 83-89 were presented for examination and were rejected (erroneously indicated as “allowed” in the Office Action Summary). Claims 1, 12, 24, 37, 49, 52, 59, 63, 68, 70, 75 and 81 are in independent form, and each has been amended.

Support for these amendments can be found in the application as originally filed. For example, see Applicants’ specification in at least the following places: (pg. 56, lines 3-8); (Figs. 2A/2B); (pg. 16, lines 16-21); (pg. 17, lines 4-7); (pg. 29, line 18 - pg. 30, line 4); (Tables V and VI, pgs. 30 - 32).

In addition, dependent claims 2, 13, 25, 38, 39, 46, 49, 57, 58, 62, 65, 66, 72, 73, 74 and 77 are currently amended for conformance purposes. No new matter is added. Claims 55, 64, 69, 71 and 76 are hereby canceled without prejudice or disclaimer; claim 82 was previously canceled. Accordingly, claims 1-54, 56-63, 65-68, 70, 72-75, 77-81 and 83-89 are pending.

**35 U.S.C §102 REJECTION - CIMSPEC**

Claims 1-81 and 83-89 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by DMTF, “Common Information Model (CIM) Specification”, 6-1999,

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<sup>1</sup> The Office Action may contain a number of statements characterizing the cited references and/or the claims which Applicants may not expressly identify herein. Regardless of whether or not any such statement is identified herein, Applicants do not automatically subscribe to, or acquiesce in, any such statement. Further, silence with regard to rejection of a dependent claim, when such claim depends, directly or indirectly, from an independent claim which Applicants deem allowable for reasons provided herein, is not acquiescence to such rejection of that dependent claim, but is recognition by Applicants that such previously lodged rejection is moot based on remarks and/or amendments presented herein relative to that independent claim.

(hereinafter “CIMSPEC”). This rejection is respectfully traversed for the following reasons.

Applicants have reviewed the Office Action and continue to respectfully disagree with the Examiner’s reasoning. The Examiner had been, and still is, reading the new standard software architecture specification, CIMSPEC, against legacy software architecture aspects recited in Applicants’ claims. Legacy software architecture is that which was created by software developers for their respective and mutually-competitive business organizations, and such architecture can vary markedly from one organization to another. Indeed, legacy architecture is proprietary, non-standard architecture, unique to the organization which developed it and which has a large investment in it. Typically, software in accordance with one legacy architecture may not be compatible with different software in accordance with different legacy architecture.

By fundamental contrast, there is no similar variability in CIMSPEC, because it is the new standard for all and, by any reasonable understanding of what is meant by a standard specification, is a fixed target which all participants strive to meet. Accordingly, Applicants believe that CIMSPEC, an invariant standard, should never have been viewed as being equivalent in any way to variable legacy architecture and, therefore, should not have been read on the legacy architecture aspects of Applicants’ claims, in the first place.

Nevertheless, in an effort to substantially advance the prosecution of this application, Applicants have amended all pending independent claims to even more clearly define around CIMSPEC. In all independent claims, the following limitation, or its fundamental equivalent, is recited: “compiling said representations into machine language and linking said machine language with other machine-language corresponding

to said header files to form an executable program that runs both machine languages together in accordance with both said non-legacy software architecture and said legacy software architecture to convert said first requests in accordance with said non-legacy software architecture into converted requests in accordance with said legacy software architecture and to re-convert obtained results in accordance with said legacy software architecture into re-converted results in accordance with said non-legacy software architecture” (emphasis added). Applicants submit that the CIMSPEC nowhere discloses or suggests this limitation.

For example, CIMSPEC, pgs. 60-64, cited in the Office Action, may show three different types of mapping, i.e., technique mapping, recast mapping and domain mapping, for purposes of mapping existing models into CIM but, once they are mapped, the existing models are no longer used. The existing models are then out of the picture. Any existing model (i.e., legacy software) is not run together with CIMSPEC software in a computer system. Therefore, the above-quoted claim limitation clearly defines around this teaching of CIMSPEC.

MPEP § 2131 states that to anticipate a claim, the reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ...claim.” *See Richardson v. Suzuki Motor Co.*, 868 F. 2d 1226, 1236, 9USPQ2d 1913, 1920 (Fed. Cir. 1989). It is respectfully submitted that, for reasons given above, CIMSPEC does not satisfy this requirement because (1)

each and every element of Applicants' claims cannot be found in CIMSPEC and (2) the identical invention is not shown in CIMSPEC, much less shown in as complete detail as is contained in the claim. Therefore, the 35 U.S.C § 102(b) rejection of all pending independent claims as being anticipated by CIMSPEC should be withdrawn and the claims allowed, for this reason alone.

In addition, Applicants have amended independent claims 1, 12, 24, 37, 49, 52, 70, 75 and 81 to recite "said legacy software architecture being other than distributed management task force (DMTF) common information model (CIM) architecture." (emphasis added) This additional language expressly defines what was previously clearly understood from a reading of the claims. Unless this additional language is intentionally ignored, there is no way that CIMSPEC can be read upon legacy aspects of Applicants' claims. Therefore, in accordance with MPEP § 2131 noted above, these independent claims are not anticipated by CIMSPEC, wherefore the 35 U.S.C § 102(b) rejection of these independent claims as being anticipated by CIMSPEC should be withdrawn and these claims allowed, for this additional reason alone.

Finally, Applicants have amended independent claims 1, 12, 24, 37, 49 and 52 to now recite: "proprietary and non-standard schema." The Office Action (pg. 5) cites the schema shown in Fig. 1-1 on pg. 3 in CIMSPEC against Applicants' recited schema. As previously explained in a prior response, the CIMSPEC schema simply cannot be Applicants' schema. With this current amendment the CIMSPEC schema is even further removed from Applicants' recited schema because the CIMSPEC schema is not, and cannot be, a "proprietary and non-standard schema" as recited in claims 1, 12, 24, 37, 49 and 52. Much to the contrary, the CIMSPEC schema must be a non-proprietary and

*standard schema*. Therefore, Applicants' schema, as recited in these claims, is not anticipated by the schema disclosed in CIMSPEC and, in accordance with MPEP § 2131 noted above, the 35 U.S.C § 102(b) rejection of these independent claims as being anticipated by CIMSPEC should be withdrawn and the claims allowed, for this additional reason alone.

### **35 U.S.C §102 REJECTION - HAMMER**

Claim 81 is rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Hammer et al., "Information Translation, Mediation, and Mosaic-based Browsing in the TSIMMIS System", SIGMOD Demo Proposal, CiteSeer, pp. 1-5, 1995 (hereinafter "Hammer"). Applicants traverse this rejection for at least the following reasons.

Hammer does not disclose or suggest at least: "an executable program formed from a binary derived from said legacy software architecture linked with a binary derived from said non-legacy software architecture, said linked binaries running together in said executable program on a processor in accordance with both said non-legacy software architecture and said legacy software architecture" as recited in claim 81. (emphasis added) Therefore, the 35 U.S.C § 102(b) rejection of claim 81 as being anticipated by Hammer should be withdrawn and the claim allowed.

### **PENDING DEPENDENT CLAIMS:**

Claims 2-11, dependent from claim 1, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 1.

Claims 13-23, dependent from claim 12, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 12.

Claims 25-36, dependent from claim 24, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 24.

Claims 38-48, dependent from claim 37, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 37.

Claims 50-51, dependent from claim 49, are allowable, at least for reasons based on their dependency, directly or indirectly, directly or indirectly, from allowable base claim 49.

Claims 53-54 and 56-58, dependent from claim 52, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 52.

Claims 60-62, dependent from claim 59, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 59.

Claims 65-67, dependent from claim 63, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 63.

Claims 72-74, dependent from claim 70, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 70.

Claims 77-80, dependent from claim 75, are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 75.

Claims 83-89, dependent from claim 81 are allowable, at least for reasons based on their dependency, directly or indirectly, from allowable base claim 81.

## CONCLUSION

Reconsideration and allowance of all pending claims are respectfully requested. To the extent that the above-discussed, or any other, Office Action citations of CIMSPEC were applied against particular dependent claim elements but not expressly rebutted herein, it is to be understood that Applicants' silence does not mean or imply acquiescence. Rather, Applicants believe that any response to application of such citations would be moot in view of the foregoing arguments and provisions of MPEP §§ 2131.

To the extent that an extension of time may be needed in order to enter this Reply in this case, please consider this response as including a petition under 37 C.F.R. § 1.136 for such extension of time. Please charge any fee for such petition or any other fee or cost that may be incurred by way of this amendment to Patent Office deposit account number 05-0889.

If the Examiner feels that a telephone conversation may serve to advance the prosecution of this application, he is invited to telephone Applicants' undersigned representative at the telephone number provided below.

Respectfully submitted,

  
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